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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624.888	07/23/2003	Franz Enzmann	P66925US1	6760

136 7590 08/25/2006

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EXAMINER	
ROGERS, JAMES WILLIAM	
ART UNIT	**PAPER NUMBER**
1618	

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/624,888	ENZMANN, FRANZ	
	Examiner	Art Unit	
	James W. Rogers, Ph.D.	1618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 July 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *6-13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *6-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to amendment

The Amendment - After Non-Final Rejection filed 07/24/2006 has been considered.

All rejections not addressed herein have been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 6-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Masterson et al (US 6,200,550 B1), for the reasons set forth in the office action mailed 03/22/2006.

Applicants arguments filed 07/24/2006 have been considered but they are not persuasive.

Applicant asserts Masterson does not disclose "aqueous colloidal dispersion". The relevance of this assertion is unclear. Clearly Masterson discloses that Coenzyme Q_{10} is combined with a solubilizing agent and water-soluble flavoring agents, the solubilizing agent, must be capable of preventing Coenzyme Q_{10} from precipitating from the water based composition and forming a heterogeneous unstable composition.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masterson et al (US 6,200,550 B1) in further view of Nagley et al (US 5,981,601), for the reasons set forth in the office action mailed 03/22/2006.

Applicants arguments filed 07/24/2006 have been considered but they are not persuasive.

Applicant asserts neither Masterson nor Nagley supports the limitation "aqueous colloidal dispersion".

From the above argument it is clearly shown that Masterson does disclose an aqueous colloidal dispersion, therefore the rejection stands.

Claims 6-11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masterson et al. (US 6,200,550 B1) in view of Nagley et al. (US 5,981,601) in view of ISAO (JP 52-130922), this new rejection is necessitated by amendment.

The Masterson patent is disclosed as described above and in the previous office action mailed 03/22/2006.

Masterson does not teach a method of administering to a person in need for the diseases outlined in claims 8-11 and 13.

Nagley is disclosed in the previous office action mailed 03/22/2006.

Isao is used to primarily show that the use of coenzyme-Q_{10} as a treatment for headaches (meets the limitation of micgraine) was well known at the time of the invention. See DERWENT basic abstract.

It would have been obvious to combine the above documents because Matherson teaches an oral care composition comprising high concentrations of Ubiquinone Q_{10} in oral compositions (including solutions and emulsions) and delivery by mouth spray while Nagley teaches therapeutic compositions comprising Ubiquinone Q_{10}, and the following diseases treatable by the composition hereditary optic neuropathy, Parkinson's disease and Alzheimers, while Isao was used to primarily show that the treatment of headaches with Ubiquinone Q_{10} was well known in the art at the time of the invention. The motivation to combine the above documents would be a mouth spray containing Ubiquinone Q_{10} for the treatment of hereditary optic neuropathy, Parkinson's disease Alzheimers and migraines.

Claims 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masterson et al. (US 6,200,550 B1) in view of Nagley et al. (US 5,981,601) in view of Beal et al. (Molec. Aspects Med. Vol 18, supplement, pp s169-s179)

The Masterson patent is disclosed as described above and in the previous office action mailed 03/22/2006.

Masterson does not teach a method of administering to a person in need for the diseases outlined in claims 8-12.

Nagley is disclosed in the previous office action mailed 03/22/2006.

Beal is used to primarily show that the use of coenzyme-Q_{10} as a treatment for Huntintons disease was well known at the time of the invention. See abstract.

It would have been obvious to combine the above documents because Matherson teaches an oral care composition comprising high concentrations of Ubiquinone Q_{10} in oral compositions (including solutions and emulsions) and delivery by mouth spray while Nagley teaches therapeutic compositions comprising Ubiquinone Q_{10}, and the following diseases treatable by the composition hereditary optic neuropathy, Parkinson's disease and Alzheimers, while Beal was used to primarily show that the treatment of Huntington's disease with Ubiquinone Q_{10} was well known in the art at the time of the invention. The motivation to combine the above documents would be a mouth spray containing Ubiquinone Q_{10} for the treatment of hereditary optic neuropathy, Parkinson's disease Alzheimers and Huntington's disease.

Conclusion

No claims are allowed at this time.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James W. Rogers whose telephone number is (572) 272-7838. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Hartley can be reached on (572) 271-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MICHAEL G. HARTLEY
SUPERVISORY PATENT EXAMINER